

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 412
By: Middleton
Criminal Justice
3/3/2025
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The ability of Texas public schools to legally allow obscene instructional material and school districts' lack of transparency on the issue has led to an increased amount of access to sexually explicit, obscene, and age-inappropriate content for Texas students. This material has a detrimental effect on children as their identities are still developing.

The affirmative defense to the crime of "Sale, Distribution, or Display of Harmful Material to Minors" is overly broad and offers a disproportionate amount of protection compared to the harm posed to minors. This bill seeks to narrow the scope of the affirmative defense and deter harmful acts of obscenity.

S.B. 412 relates to affirmative defenses to prosecution for certain offenses involving material or conduct that is obscene or otherwise harmful to children. It amends sections of the Texas Penal Code to specify conditions under which affirmative defenses can be claimed.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 412 amends current law relating to defenses to prosecution for certain offenses involving material or conduct that is obscene or otherwise harmful to children.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 43.24, Penal Code, by adding Subsection (c-2), as follows:

(c-2) Provides that it is an affirmative defense to prosecution under Subsection (b)(1) (relating to providing that a person commits an offense if the person sells, distributes, exhibits, or possesses for sale, distribution, or exhibition harmful material to a person he knows is a minor) or (2) (relating to providing that a person commits an offense if the person displays harmful material and is reckless about whether a minor is present) that at the time of the offense the actor was a judicial or law enforcement officer discharging the officer's official duties.

SECTION 2. Amends Section 43.25(f), Penal Code, as follows:

(f) Provides that it is an affirmative defense to a prosecution under Section 43.25 (Sexual Performance by a Child) that at the time of the offense the actor was a judicial or law enforcement officer discharging the officer's official duties. Deletes existing text providing that it is an affirmative defense to a prosecution under this section that the conduct was for a bona fide educational, medical, psychological, psychiatric, judicial, law enforcement, or legislative purpose.

SECTION 3. Repealer: Section 43.24(c) (relating to providing a certain affirmative defense to prosecution for the sale, distribution, or exhibition of harmful material), Penal Code.

SECTION 4. Makes application of this Act prospective.

SECTION 5. Effective date: September 1, 2025.